the name of Eng Chuan & Co.

(3) That the learned trial judge erred in fact and/or in law in rejecting the defence of the appellants (defendants in the D.C. Summons) with regard to the creation of a tenancy by estoppel in favour of the appellants (in their defence the defendants had not pleaded estoppel).

(4) The learned trial judge erred in holding that the appellants were unlawfully in possession of the said premises and

(5) The learned trial judge erred in holding that the appellants were not entitled to the protection of the Control of Rent Ordinance.

On the appeal in the High Court before D'Cotta J., Mr. Smith for the defendants (appellants) contended that as the rents were paid and receipts given in the name of the firm the partners of the firm were entitled to tenancy and cited *South Union Co. Ltd.* v. *Seng Hin Ltd.*[1] Mr. Kirpal Singh for the respondent (plaintiffs) contended that tenancy of the premises in this case vested in Lee Siew Pan, the sole proprietor of Eng Chuan & Co., at the time of the letting. Further, he contended that the defence of estoppel to be availed of by the defendants should have been, which it was not in this case, expressly pleaded and in any event estoppel could not arise without knowledge on the part of the landlord (which there was not).

The learned appeal judge from the facts "found that the bank purchased the property in 1964 subject to the tenancy of the company whose firm at the relevant time comprised a partnership of 3 persons namely Lee Chay Tian, Lee Chay Kiat and Lee Chay Soon." Further he found that "initially the bank was quite prepared to accept the company as their tenants irrespective of the composition of the company and this they did up till 1975... The attitude of the bank has been such that they did not care or did not even trouble to know who the actual tenant was so long as someone paid the rent. It appears to me that it only dawned on the bank to seek legal advice in 1975 when they wanted to rebuild, whereas if they had been sufficiently diligent they would have made the necessary inquiries when they purchased the premises in 1964. This cannot be held against the company." With respect, we cannot agree that the law casts any such duty or obligation on purchasers of property.

Finally, he went on to say, "In my judgment I find the bank accepted the company as their tenants. In conclusion I find it difficult to accept the submission of counsel for the bank when he described the company as trespassers. In the circumstances I allow the appeal with costs."

There is no evidence that the bank had entered into a new agreement creating a new tenancy in favour of Lee Chay Tian, Lee Chay Kiat and Lee Chay Soon. This being so, the only other way by which these three persons could have become the tenants of the bank would have been by way of a tenancy by estoppel. The defendants (the respondents in this appeal) had not pleaded estoppel at the trial and as this defence was not available to them the learned appeal judge misdirected himself when he dealt with the appeal as if such a plea had been expressly pleaded by the respondents (defendants).

We therefore cannot agree with the learned appeal judge that the bank had accepted the company (meaning the three partners of Eng Chuan & Co. in 1964) as their tenants.

We allow the appeal with costs here and below. The judgment of the learned District Judge will be restored. Possession of 61, 61A and 61B Chulia Street to be given by the defendants to the plaintiff on or before September 30, 1980.

Appeal allowed.

Solicitors: *Kirpal Singh & Co.; L.A.J. Smith.*

UNITED OVERSEAS LAND LTD. v. LOKE HONG KEE (S) PTE. LTD.

[C.A. (Wee Chong Jin C.J., Kulasekaram & Chua JJ.) July 25, 1979]

[Singapore — Civil Appeal No. 59 of 1978]

Arbitration — Case stated — Dispute arising out of written agreement — Supplemental agreement containing proviso for termination — Contract terminated in accordance therewith — Appeal against lower court's decision in allowing review by arbitrator.

Interpretation — Clear and unambiguous term — Court's duty to give effect to it even though oppressive.

This is an appeal against the decision of the High Court ([1979] 1 M.L.J. 108) on a special case stated pursuant to section 28 of the Arbitration Act (Cap. 16). The dispute in this case arose out of a written agreement dated April 8, 1974 between the parties. Under the said agreement, the respondents agreed to carry out and complete certain building works under the supervision and to the satisfaction of the appellants' architect.

By a supplemental agreement of March 23, 1976 made between the parties, the appellants were "at liberty to determine the employment of the respondents under the main contract forthwith by notice in writing" upon the recommendation of the architect in writing should he be of the opinion that the respondent had failed to maintain the progress of works as specified in the schedule to the agreement. On March 1, 1977 the architect, pursuant to the said provisions by a letter to the appellants recommended the determination of employment of the respondents under the main contract. The respondents were not, in his opinion, carrying out the works expeditiously and with every diligence. By a letter of March 1, 1977 the appellants determined the respondents' employment under the main contract forthwith.

Disputes having arisen between the parties, the matter was referred to arbitration before a sole arbitrator. Subsequently the parties agreed that the arbitrator should state certain points of law for the opinion of the High Court. The learned judge held, *inter alia*, that the arbitrator could review or revise an opinion of the architect under the supplemental agreement pursuant to the powers conferred upon him by the main contract.

Article V Clause 6 of the supplemental agreement provides that in the event of a determination of the respondents' employment the firm of Pakatan International Suckling McDonald shall assess the works completed and the valuation of the said Quantity Surveyor shall be binding on the parties and shall be final. The respondents claimed that the said Quantity Surveyor's valuation was too low and sought for a revaluation by the arbitrator under clause 34(3).

The appellants appealed.

Held, allowing the appeal: (1) on a careful consideration of the terms of the supplemental agreement, the intention of

the parties to it was that the appellants could determine the respondents' employment under the main contract if, *inter alia*, the architect was of the *bona fide* opinion that the progress of the works specified in the third schedule annexed to the supplemental agreement was unsatisfactory and the architect recommended in writing to the appellants to determine the employment;

(2) however stringent such a term may be, when it comes to be enforced the courts have declared that their duty is in such cases to ascertain and give effect to the intention of the parties as evidenced by the agreement and if a term is clear and unambiguous the court is bound to give effect to it without stopping to consider how far it may be oppressive or not;

(3) the powers of the arbitrator under clause 34(3) are limited to opening up, reviewing or revising any opinion or decision of the architect and the arbitrator is given no power under that clause to open up a valuation by a third party as a result of a separate contract between the parties in which they have expressly agreed that the valuation shall be final and binding on them.

Case referred to:-

(1) *Roberts* v. *Bury Improvement Commissioners* (1870) L.R. 5 C.P. 310.

CIVIL APPEAL.

Christopher Bathurst Q.C. (*Winston Chen* with him) for the appellants.

C.S. Wu for the respondents.

Cur. Adv. Vult.

Wee Chong Jin C.J. (delivering the judgment of the Court): This is an appeal from the decision of D'Cotta J. on a special case stated for the decision of the High Court pursuant to section 28 of the Arbitration Act (Cap. 16) in relation to a dispute between the parties which has arisen in connection with a building contract for the erection of two blocks of flats by the respondents.

By an agreement in writing dated April 8, 1974 between the respondents, Loke Hong Kee (S) Pte. Ltd. and the appellants, United Overseas Land Limited, the respondents agreed to carry out and complete certain building works comprising the erection of two blocks of flats together with ancillary works at Cairnhill under the supervision and to the satisfaction of the appellants' architect.

By a supplemental agreement made between the same parties and dated March 23, 1976 it was, *inter alia*, provided: —

(a) Under Article V Clause 1 that the respondents should adhere to the progress of works specified in the Third Schedule annexed to the supplemental agreement to ensure the completion of the works on or before the dates specified therein.

(b) Under Article V Clause 2 that the respondents should carry out the works expeditiously and with every diligence and complete the same.

(c) Under Article V Clause 3 that in the event of the progress of the works being in the opinion of the architect unsatisfactory and/or in the event of respondents failing to adhere or maintain the progress of works as specified in the said Third Schedule and/or upon any breach of the supplemental agreement by the respondents then upon the recommendation of the architect in writing and in addition to the appellants' rights under the main contract the appellants should be at liberty to determine the employment of the respondents under the main contract forthwith by notice in writing.

(d) Under Article V Clause 6 that upon the appellants regaining possession of the site the firm of Pakatan International Suckling McDonald should within two weeks measure the works as completed by the respondents and the valuation of the said Pakatan should be binding on both parties and should be final.

(e) Under Article VIII that notwithstanding the provisions contained in the supplemental agreement the time for completion of the works unless extended by the architect under the main contract should remain as at May 4, 1976 and that nothing in the supplemental agreement should affect or modify or diminish any right of the appellants and the respondents of whatever kind against each other arising out of the act or default of either party under the main contract the terms and conditions of which should remain valid and binding on the parties to the supplemental agreement subject to the provisions thereof particularly the additional rights and benefits of the appellants provided therein.

On March 1, 1977 the architect, pursuant to the provisions of Article V Clause 3 of the supplemental agreement, by a letter to the appellants stated that he was of the opinion that progress of the works was unsatisfactory; that it was obvious that the respondents had failed to adhere or maintain the progress of work as specified in the Schedule to the supplemental agreement; that the respondents were not making serious attempts to adhere or maintain the progress of works; and that the respondents were not carrying out the works expeditiously and with every diligence; and accordingly recommended that the appellants ought to determine the employment of the respondents under the main contract.

By a letter also dated March 1, 1977 the appellants determined the respondents' employment under the main contract forthwith.

Disputes and differences having arisen between the parties, such disputes and differences were referred to arbitration before a sole arbitrator. One main dispute or difference was whether the appellants had lawfully determined the respondents' employment as aforesaid.

After pleadings were delivered the arbitrator commenced the hearing of the arbitration. After hearing the evidence in chief of the first witness, the managing director of the respondents, the hearing was adjourned for the purpose, *inter alia*, of considering whether points of law had arisen during the reference. Subsequently the parties agreed that the arbitrator should state certain points of law for the opinion of the High Court. Accordingly, the arbitrator stated the following questions in the form of a special case stated for the decision of the High Court: —

"A1. Whether I am entitled to open up review or revise an opinion of the Architect under Article V Clause 3 of

the Supplemental Agreement pursuant to the powers conferred upon me by Clause 34 of the Main Contract.

A2. Whether for the purposes of Article V Clause 3 of the Supplemental Agreement and the recommendation of the Architect given in pursuant thereto it is sufficient that the Architect should have formed an opinion in good faith on the information available to him at the time.

A3. Whether or not by virtue of the powers conferred upon me as Arbitrator under Clause 34 of the Main Contract I am entitled to direct that the Claimant's claims under paragraphs 4 and 4A in their Points of Claim be measured and/or valued as may in my opinion be desirable in order to determine the rights of the parties and/or to open up, review or revise the valuation of the Works executed and materials supplied by the Claimants and carried out by Pakatan purportedly pursuant to the provisions of Article V Clause 6 of the Supplemental Agreement.

A4. In determining whether or not the Claimants have failed:—

(i) To adhere to the progress of Works specified in the schedules to the Supplemental Agreement, and/or

(ii) To carry out the Works expeditiously and with every diligence, and/or

(iii) To make satisfactory progress (pursuant to Article V Clauses 1, 2 and 3 of the Supplemental Agreement),

I am entitled to take into consideration any delay on the part of nominated subcontractors (other than any such delay which may be shown to have been caused by any breach of contract on the part of the Respondents).

A5. Whether on the true construction of the Supplemental Agreement I am entitled to open up review or revise the extension of time already granted (to 4th of May 1976) in respect of causes arising and/or occurring and/or known to the Claimants and/or arising from instructions given before the date of the Supplemental Agreement.

B1. (a) Whether the Claimants are entitled to adduce evidence without amendment of the pleadings to establish that the dates for the issue of drawings recorded in the schedules attached to the respondents' letter to the Claimants of the 1st of April 1976 had been agreed as alleged by the Claimants.

(b) In the event of the preceding question being answered in the negative then whether in all circumstances an amendment to allege such foregoing agreement should be allowed.

B2. Whether William Chen's certification that in his opinion the Works as defined by the Building Contract or reasonably to have been completed by the Claimants by the 4th of May 1976 contained in his letter to the Claimants of the 18th of July 1977:

(a) has binding effect, and

(b) subject to opening up review or revision by me pursuant to the powers conferred on me under Clause 34 of the Main Contract.

B3. Whether the Claimants are precluded from relying on paragraph 3 of their Points of Reply and Defence to Counterclaim by virtue of their failure to claim for an extension of time at the appropriate time or times."

D'Cotta J. answered the said questions as follows: —

A1. — Affirmative.

A2. — Not answered as counsel for both parties had agreed that this question would only arise if question A1 was answered in the negative.

A3. — Affirmative.

A4. — Affirmative.

A5. — Affirmative.

B1. (a) — Affirmative.
(b) — Affirmative.

B2. (a) — Negative.
(b) — Affirmative.

B3. — Negative.

From this decision the appellants appealed but before the hearing of the appeal, they have abandoned their appeal in respect of the answers to questions B1 and B2. During the hearing of the appeal the appellants have intimated that as questions A4, A5 and B3 relate to claims made by them against the respondents for liquidated damages, which claims they do not intend to further prosecute if they are successful in this appeal on questions A1, A2 and A3, they are seeking the court's leave to adjourn the hearing of the appeal on questions A4, A5 and B3 pending the decision of the court on questions A1, A2 and A3 on their undertaking that if they ask the court to restore the hearing on these remaining questions they would in any event pay all costs thrown away by reason of the hearing of these remaining questions being adjourned at the first hearing. We granted the application.

Questions A1 and A2

These two questions relate to one of the issues which the arbitrator has to decide, namely, whether or not the termination on March 1, 1977 of the respondents' engagement was lawful or was a breach of contract. The appellants contend that on a true construction of the main contract and the supplemental agreement, in particular Article V Clause 3, they are entitled to terminate the respondents' engagement if the architect was of the *bona fide* opinion that the progress of the works was unsatisfactory and that such an opinion is not subject to opening up, review or revision by the arbitrator. The respondents contend that the arbitrator is entitled to open up, review or revise the opinion of the architect by virtue of the powers conferred on him by Clause 34 of the main contract which provides as follows: —

"Clause 34 (1) Provided always that in case any dispute or difference shall arise between the Employer or the Architect on his behalf and the Contractor, either during the progress or after the completion or abandonment of the Works, as to the construction of this Contract or as to any matter or thing of whatsoever nature arising thereunder or in connection therewith (including any matter or thing left by this Contract to the discretion of the Architect or the withholding by the Architect of any certificate to which the Contractor may claim to be entitled or the measurement and valuation mentioned in clause 30(5)(a) of these Conditions or the rights and liabilities of the parties under clauses 25, 26, 31 or 32 of these Conditions), then such dispute or difference shall be and is hereby referred to the arbitration and final decision of a person to be agreed between the parties, or, failing agreement within 14 days after either party has given to the other a written request to concur in the appointment of an Arbitrator, a person to be appointed on the request of either party by the President or a Vice-President for the time being of the Singapore Institute of Architects.

(3) Subject to the provisions of clauses 2(2) and 30(7) of these conditions the Arbitrator shall, without prejudice to the generality of his powers, have power to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given."

We accept the appellants' contention. The plain,

clear and indeed the only meaning of Article V Clause (3) is that the appellants have a right to terminate the respondents' engagement if the architect was of the *bona fide* opinion that progress of the works was unsatisfactory. The construction for which the respondents contend not only robs the words "in the opinion of the architect" of any meaning and effect whatsoever and renders these words a nullity, but completely ignores the distinction in Article V Clause 3 between the first event, which is an opinion, and the second and third events which are an actual failure or breach.

It is a primary principle of construction that effect must be given to all the words in a contract unless by doing so damage is done to the rest of the contract. The jurisdiction or power conferred on the arbitrator by Clause 34 of the main contract is to decide all matters in dispute between the parties, and in doing so he is not bound by any prior certificate or opinion of the architect upon the matter in dispute. The matter in dispute before the arbitrator is whether or not there existed a ground for determining the respondents' engagement. Article V Clause 3 expressly provided one such ground, namely, that the architect was of the opinion that the progress of the works was unsatisfactory. The matter in dispute which the arbitrator has to decide is whether or not such an opinion existed and, if so, was it a *bona fide* opinion. Under Clause 34 of the main contract the arbitrator has the power and has to determine this issue and the architect has given no certificate, opinion or decision upon the issue which required to be opened up or reviewed.

In our judgment, on a careful consideration of the terms of the supplemental agreement, the intention of the parties to it was that the appellants could determine the respondents' employment under the main contract if, *inter alia*, the architect was of the *bona fide* opinion that the progress of the works specified in the Third Schedule annexed to the supplemental agreement was unsatisfactory and the architect recommended in writing to the appellants to determine the employment. It appears to us to be not unreasonable and indeed, in our opinion, it is plain that the parties put faith in the architect to act responsibly in relation to Article V Clause 3 and have accepted and agreed on the architect, as a sensible and independent person, to protect the interest of each, relying on his judgment, good sense and independence.

However stringent such a term may be, when it comes to be enforced the courts have always declared that their duty is in such cases to ascertain and give effect to the intention of the parties as evidenced by the agreement and if a term is clear and unambiguous the court is bound to give effect to it without stopping to consider how far it may be oppressive or not.

In our judgment so long as the architect's opinion was reached *bona fide* the appellants were entitled to act on the written recommendation of the architect and to determine the respondents' employment under the main contract on that ground. Accordingly, the answer to question A1 should be in the negative and the answer to question A2 should be in the affirmative.

In the course of his argument, counsel for the respondents contends that even if the answers to these two questions are not in the respondents' favour, there is a principle of law known as the common law principle of prevention that (we quote) "if the arbitrator is satisfied on the evidence that the owner's own actions (e.g. late issue of drawings and issue of variation orders) had prevented the contractor from maintaining satisfactory progress of the works, then the owner is precluded from relying on the architect's opinion and recommendation under Article V Clause 3 of the supplemental agreement as a ground for termination of the building contract".

In our judgment this common law principle does not arise on the special case and is not a question stated for the court's consideration in the special case stated. This common law principle clearly has nothing to do with questions A1 and A2 which are questions of construction of the contract between the parties and events subsequent to the contract cannot alter its true construction.

The respondents relied on *Roberts* v. *Bury Improvement Commissioners*[1] in support of this contention. In our opinion that case is distinguishable. In that case the owners admitted on the record that the alleged failure by the contractor to use such diligence and to make such progress as to enable him to complete the works by the day specified was caused by the failure of the owners and their architect to supply plans and set out the land necessary to enable the contractor to commence the works. On that admission the common law principle was held applicable, the principle being that one of two contracting parties is exonerated from the performance of a contract when the performance of it is prevented and rendered impossible by the wrongful act of the other contracting party. The majority of the Court of Exchequer Chamber held that on its true construction a particular clause in the contract relied on by the owners did not confer upon the architect the power to determine whether the delay of the contractor to proceed with the works so as to complete them by the day specified had or had not been caused by the failure of the owners to supply the necessary plans and set out the land.

Question A3

This question arises under Article V Clause 6 of the supplemental agreement which provides that in the event of a determination of the respondents' employment the firm of Pakatan International Suckling McDonald "shall measure the works as completed by the contractor and the valuation of the said Quantity Surveyor shall be binding on both parties and shall be final". The respondents are claiming that the said Quantity Surveyor's valuation is too low and they contend that the arbitrator has power under Clause 34(3) of the main contract to open up the valuation and then to direct such measurements and/or valuation as may in his opinion be desirable.

This question is likewise a question of construction of the contract between the parties and for the same reasons we have given on questions A1 and A2 we are of the opinion that the answer to this

question must be in the negative. Furthermore, it is clear that the powers of the arbitrator under Clause 34(3) are limited to opening up, reviewing or revising any opinion or decision of the architect and the arbitrator is given no power under that clause to open up a valuation given by a third party as a result of a separate contract between the parties in which they have expressly agreed that the valuation shall be final and binding on them.

Accordingly, the appellants succeed in their appeal on questions A1, A2 and A3 and we reserve the question of costs until the hearing and determination of the appeal on the remaining questions.

Appeal allowed.

Solicitors: *Shook Lin & Bok; Donaldson & Burkinshaw.*

GALSTAUN & ANOR. v. ATTORNEY-GENERAL*

[O.C.J. (Chua J.) July 11, 1980]
[Singapore — Suit No. 1931 of 1978]

Land Acquisition — Compulsory acquisition of land for public purpose — Claim that acquisition in relation to apparent and actual access of plaintiffs' land ultra vires and illegal — Land Acquisition Act (Cap. 272), s. 5(1).

The plaintiffs in this case were the owners of the land known as No. 27 Tomlinson Road, Singapore. The said land was acquired for a public purpose viz. for Orchard Boulevard Extension. The plaintiffs claimed that Orchard Boulevard having been constructed, the Collector of Land Revenue had acquired the plaintiffs' land in excess of that required for Orchard Boulevard. The excess which amounts to 2044 sq. metres abuts and has a frontage to Orchard Boulevard. The plaintiffs averred that the taking of the whole of their land in excess of that apparently required for Orchard Boulevard was an abuse of the statutory powers conferred by the Land Acquisition Act and was *ultra vires* and illegal.

The road lines of the Orchard Boulevard Extension cut right across a substantial portion of the plaintiffs' land and a large part of the house also fell within the road lines. There was a need to maintain an embankment for both sides of Orchard Boulevard having regard to the physical condition of the land. The Collector of Land Revenue conceded that an area of 1539.5 sq. metre of the plaintiffs' land is at present maintained as an open space with plants and trees.

Held, dismissing the plaintiffs' action: (1) the government is the proper authority for deciding what a public purpose is. When the government declares that a certain purpose is a public purpose it must be presumed that the government is in possession of facts which induce the government to declare that the purpose is a public purpose;

(2) in this case there is no dispute that the Orchard Boulevard is a public purpose and there is no evidence that the power was exercised for any other purpose; there is no suggestion that there were *mala fides* on the part of the government.

Cases referred to:-

(1) *Wijeyesekera* v. *Festing* [1919] A.C. 646.

(2) *Syed Omar Alsagoff & Anor.* v. *State of Johore* [1979] 1 M.L.J. 49.

CIVIL SUIT.

K.E. Hilborne for the plaintiffs.

Chao Hick Tin (Senior State Counsel) for the defendant.

Cur. Adv. Vult.

Chua J.: The plaintiffs in this case were the owners of the land and hereditaments comprised in Lots 366 and 367 of Town Subdivision XXIV containing 4,259 square metres and known as No. 27 Tomlinson Road, Singapore (the plaintiffs' land). The plaintiffs lived and carried on business at No. 27 Tomlinson Road.

Pursuant to a Declaration No. 3446 made under section 5 of the Land Acquisition Act (Chapter 272) (the Act) dated November 1, 1975, and published in the *Government Gazette* No. 101 of November 8, 1975, the plaintiffs' land was acquired for a public purpose viz. for Orchard Boulevard Extension.

The plaintiffs aver that Orchard Boulevard having been constructed, the Collector of Land Revenue did actually and in fact acquire land belonging to the plaintiffs in excess of that required for Orchard Boulevard and the said stated public purpose and that such excess amounts to 2,044 square metres being land which abuts and has a frontage in Orchard Boulevard. The plaintiffs aver that the taking of the whole of their land in excess of that apparently required for Orchard Boulevard was an abuse of the statutory powers conferred by the Act in pursuance whereof the Collector of Land Revenue purported to act and they further say that such apparent excess was not land properly acquired or capable of being properly acquired as part of the said stated public purpose.

The plaintiffs now seek, *inter alia,* a declaration that the purported compulsory acquisition in relation to the apparent and actual excess of the plaintiffs' land is *ultra vires* and illegal.

The road lines of the Orchard Boulevard Extension cut right across a substantial portion of the plaintiffs' land and a large part of the house also fell within the road lines. There was a need to maintain an embankment for both sides of the Orchard Boulevard having regard to the physical condition of the land. The Collector of Land Revenue concedes that an area of 1,539.5 square metres of the plaintiffs' land is at present maintained as an open space with plants and trees.

Section 5(1) of the Act in pursuant of which the Declaration No. 3446 was made provides that

"Whenever any particular land is needed (a) for any public purpose; . . . the President may, by notification published in the *Gazette,* declare the land to be required for the purpose specified in the notification."

And section 5(3) provides that "the declaration shall be conclusive evidence that the land is needed for the purpose specified therein as provided in subsection (1) of this section."

Counsel for the plaintiffs submits that the Government cannot take more land than is needed for the specified public purpose and that it is clear in the present case some part of the plaintiffs' land has been acquired not for the specified public purpose viz. Orchard Boulevard Extension. A number of English, Australian, New Zealand and Canadian cases were cited by counsel in support of his contention. These cases, however, do not assist the plaintiffs in the present case. They dealt with acquisitions by Local Authorities exercising limited statutory powers and

* On appeal to the Court of Appeal: See Civil Appeal No. 59 of 1980.